

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

LARRY P. HIGGINS,

Plaintiff,

v.

**CIVIL ACTION NO.
2:06CV107 (Maxwell)**

**COMMISSIONER OF
SOCIAL SECURITY,**

Defendant.

ORDER

This action was referred to United States Magistrate Judge James E. Seibert in accordance with Rule 83.12 of the Local Rules of General Practice and Procedure. On August 29, 2007, Magistrate Judge Seibert filed his Report and Recommendation wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. Defendant filed his objections on September 11, 2007, and on September 19, 2007, Defendant filed Response to Plaintiff's Objections.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised in the cross motions for summary judgment were thoroughly considered by Magistrate Judge Seibert in his Report and Recommendation. The Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the proposed Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Moreover, the Defendant's objections have not raised any issues that were not thoroughly considered by the Magistrate Judge in his Report and Recommendation. Therefore, it is

ORDERED that Magistrate Judge Seibert's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly,

1. The Defendant's Motion for Summary Judgment is **GRANTED**;
2. The Plaintiff's Motion for Summary Judgment is **DENIED**;
3. The decision for the Defendant is **AFFIRMED**; and
4. This civil action is **DISMISSED** and **RETIRED** from the docket of this Court.

ENTER: October 4th, 2007



United States District Judge